

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE No. 05-20859-CR-HUCK(s)(s)

UNITED STATES OF AMERICA

v.

ARMANDO PAZ,
Defendant.

PLEA AGREEMENT

The United States of America, by and through the undersigned Assistant United States Attorney, and ARMANDO PAZ, (hereinafter referred to as the "defendant"), enter into the following agreement:

1. The defendant agrees to plead guilty to count 12 of Criminal indictment number 05-20859-CR-HUCK(s)(s), which charges him with bank fraud in violation of Title 18, United States Code, Section 1344. The United States agrees that it will dismiss counts 1 through 11, 13, 14, 15, 16, 17, 18, 20, 29, 30, 60, and 61 at the time of sentencing.

2. The defendant is aware that the sentence will be imposed by the court considering the Federal Sentencing Guidelines and Policy Statements (hereinafter "Sentencing Guidelines"). The defendant acknowledges and understands that the court will compute an advisory sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by the court relying in part on the results of a Pre-Sentence Investigation by the court's probation office, which investigation will commence after the guilty plea has been entered. The defendant is also aware that, under certain circumstances, the court may depart

from the applicable guideline range and impose a sentence that is either more severe or less severe than the guideline range. The defendant waives any constitutional challenge to the sentencing guidelines, waives trial by jury on all findings relevant to sentencing and agrees that the court may make all such findings by a preponderance of the evidence based on any reliable evidence including hearsay.

3. Knowing these facts, the defendant understands and acknowledges that the court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offense identified in paragraph one and that the defendant may not withdraw his plea solely as a result of the sentence imposed. The maximum penalty for bank fraud, in violation of Title 18, United States Code, Section 1344 is imprisonment for thirty (30) years and a fine of \$1,000,000.

4. The defendant further understands and acknowledges that, in addition to any sentence imposed under paragraph three of this agreement, the court shall impose a special assessment in the amount of one hundred United States dollars (US \$100.00).

5. The Office of the United States Attorney for the Southern District of Florida, (hereinafter "Office"), reserves the right to inform the court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well as concerning the defendant and the defendant's background. Subject only to the express terms of any agreed-upon sentencing

recommendations contained in this agreement, this Office further reserves the right to make any recommendation as to the quality and quantity of punishment.

6. The United States agrees that it will recommend at sentencing that the court reduce by three (3) levels the sentencing guideline level applicable to the defendant's offenses, pursuant to Section 3E1.1(b) of the Sentencing Guidelines, based upon the defendant's recognition and affirmative and timely acceptance of personal responsibility. However, the United States will not be required to make these sentencing recommendations if the defendant: (1) fails or refuses to make a full, accurate and complete disclosure to the probation office of the circumstances surrounding the relevant offense conduct; (2) is found to have misrepresented facts to the government prior to entering this plea agreement; or (3) commits any misconduct after entering into this plea agreement, including but not limited to committing a state or federal offense, violating any term of release, or making a false statement or misrepresentation to any governmental entity or official.

7. The parties agree the applicable guidelines are found in the 2000 Guidelines Manual at U.S.S.G. § 2F1.1. The parties agree and the evidence establishes that:

The defendant submitted a false and fraudulent letter to Colonial Bank in Miami, Florida in order to provide false information as a basis for a loan of \$489,618.06. The defendant's relevant conduct solely pertains to this loan.

The United States agrees to a sentence at the low end of the Guidelines.

8. The defendant agrees that the defendant shall cooperate fully with this Office by:

(a) providing truthful and complete information and testimony, and producing documents, records and other evidence, when called upon by this Office, whether in interviews, before a grand jury, or at any trial or other court proceeding;

(b) appearing at such grand jury proceedings, hearings, trials, and other judicial proceedings, and at meetings, as may be required by this Office; and

9. This Office reserves that right to evaluate the nature and extent of the defendant's cooperation and to make the defendant's cooperation, or lack thereof, known to the Court at the time of sentencing. If in the sole and unreviewable judgement of this Office the defendant's cooperation is of such quality and significance to the investigation or prosecution of other criminal matters as to warrant the Court's downward departure from the sentence required by the Sentencing Guidelines, this Office may at or before sentencing make a motion pursuant to Section 5K1.1 of the Sentencing Guidelines, 18 U.S.C. Section 3553(e), or a Rule 35 motion subsequent to sentencing, reflecting that the defendant has provided substantial assistance and recommending sentence reduction. The defendant acknowledges and agrees, however, that nothing in this Agreement may be construed to require this Office to file such a motion and that this Office's assessment of the nature, value, truthfulness, completeness and accuracy of the defendant's cooperation shall be binding on the defendant.

10. The defendant understands and acknowledges that the court is under no obligation to grant a government motion pursuant to Title 18, United States Code, Section 3553(e), Section 5K1.1 of the Sentencing Guidelines or Rule 35 of the Federal Rules of Criminal Procedure, as referred to in paragraph nine of this agreement, should the government exercise its discretion to file such a motion.

11. The defendant is aware that the sentence has not yet been determined by the court. The defendant also is aware that any estimate of the probable sentencing range or sentence that the defendant may receive, whether that estimate comes from the defendant's attorney, the government, or the probation office, is a prediction, not a promise and is not binding on the government, the probation office or the court. The defendant understands further that any recommendation that the government makes to the court as to sentencing, whether pursuant to this agreement or otherwise, is not binding on the court and the court may disregard the recommendation in its entirety. The defendant understands and acknowledges, as previously acknowledged in paragraph three above, that the defendant may not withdraw his plea based upon the court's decision not to accept a sentencing recommendation made by the defendant, the government, or a recommendation jointly made by both the defendant and the government.

12. The defendant is aware that Title 18, United States Code, Section 3742, affords the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this plea agreement, the

defendant hereby waives all rights conferred by Title 18, United States Code, Section 3742, to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute or is the result of an upward departure from the guideline range the court establishes at sentencing. The defendant further understands that nothing in this agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b). However, if the United States appeals the defendant's sentence pursuant to Title 18, United States Code, Section 3742(b), the defendant shall be released from the above waiver of appellate rights. The defendant understands that, although the defendant will be sentenced in conformity with the Sentencing Guidelines, by this agreement the defendant waives the right to appeal the sentence on the basis that the sentence is the result of an incorrect application of the Sentencing Guidelines or that the sentencing guidelines are unconstitutional.

13. This is the entire agreement and understanding between the United States and the

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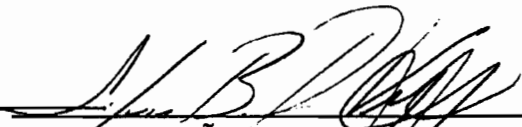
defendant. There are no other agreements, promises, representations, or understandings.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY


Date: 10/25/06

By: 
RICHARD D. GREGORIE
ASSISTANT UNITED STATES ATTORNEY

Date: 10/25/06

By: 
SILVIA B. PIÑERA-VAZQUEZ
ATTORNEY FOR DEFENDANT

Date: 10/25/06

By: 
ARMANDO PAZ
DEFENDANT